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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 15 April 2002 from the Permanent Mission of Monaco to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Principality of Monaco to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, in accordance with paragraph 6 of Security Council resolution 1390 (2002), has the honour to transmit the report of the Government of the Principality.

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Annex to the note verbale dated 15 April 2002 from the Permanent Mission of Monaco to the United Nations addressed to the Chairman of the Committee

Report submitted by the Principality of Monaco to the Security Council Committee established pursuant to resolution 1267 (1999) in accordance with paragraph 6 of Security Council resolution 1390 (2002)

The Security Council,

...

Acting under Chapter VII of the Charter of the United Nations,

...

6. *Requests* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement the measures referred to in paragraph 2 above.

I. Measures taken in implementation of paragraph 2 (a) of Security Council resolution 1390 (2002):

The Security Council,

...

2. *Decides* that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as "the Committee";

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory;

Note: This report was prepared in accordance with the guidelines set forth in note No. SCA/2/02 (3) of the Security Council Committee established pursuant to resolution 1267 (1999).

Since October 2001, in implementation of the above-mentioned resolutions, financial institutions have been provided with the lists of individuals, entities and bodies whose funds needed to be blocked.[1]

It should be noted that, to date, no funds connected with the individuals, groups, undertakings and entities included in the lists created pursuant to the two resolutions referred to above have been frozen in the financial institutions of the Principality.

At the same time, the Government of the Principality has completed its procedure for the ratification of the International Convention for the Suppression of the Financing of Terrorism, which was given force of law in the Principality by Sovereign Ordinance No. 15,319 of 8 April 2002; meanwhile, domestic legal instruments have been drawn up to suppress the financing of terrorism, and also to define the modalities for the application of asset-freezing procedures for the purpose of combating terrorism and to publicize the above-mentioned lists.

Sovereign Ordinance No. 15,321 of 8 April 2002 concerning the procedures for the freezing of funds for the purpose of combating terrorism includes the following provisions:

- Obligation for credit establishments, financial institutions, insurance enterprises and all bodies, entities and individuals to freeze funds belonging to physical or juridical persons, entities or bodies identified by ministerial decree and held by them;
- Definition of the concept of freezing which consists of preventing any movement, modification, utilization or manipulation of such funds;
- Establishment of additional prohibitions such as making frozen funds available to individuals listed in the ministerial decree; providing services to such individuals; and carrying out or participating in operations to bypass freezing procedures;
- Definition of criminal penalties applicable in cases of failure to comply with the above-mentioned obligations.

The lists drawn up by ministerial decree will be amended or supplemented on the basis of the decisions taken by international bodies, in particular by the Security Council Committee established pursuant to resolution 1267 (1999).

II. Measures taken in implementation of paragraph 2 (b) of Security Council resolution 1390 (2002)

The Security Council,

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2. *Decides* that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other

[1] Relevant information on this matter has also been provided in the report of Monaco submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001), in document S/2002/93, particularly in the commentary on paragraph 1, subparagraphs (c) and (d).

individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999), hereinafter referred to as "the Committee";

...

(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case-by-case basis only that entry or transit is justified;

Further to the information concerning border controls provided in the report of Monaco submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001), in document S/2002/93, commentary concerning paragraph 2, subparagraph (g), it should be noted that, in implementation of the Convention between France and Monaco of 18 May 1963, the stay of foreign nationals in Monaco is subject to the prior agreement of the French authorities. Consequently, as in France, an application for residence in the Principality by an individual included in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) would be denied.

The Principality of Monaco has specific measures available to it to prevent the arrival and stay in its territory of undesirable persons:

- Pursuant to the Convention between France and Monaco of 18 May 1963, as amended, the Principality of Monaco implements the provisions relating to entry into the Schengen area in respect of the exercise of controls at its borders. Thus, persons whose names are included in the Schengen Information System for the purposes of non-admission may not enter Monegasque territory.
- Pursuant to the above-mentioned bilateral Convention, the issuance of a residence card to a foreign national requires prior consultation of the French authorities. If these authorities object to a foreign national staying in Monaco, the result is non-issuance of a residence card to the person concerned.

Moreover, following the attacks of 11 September 2001, the Monegasque Public Security Department received instructions to strengthen border controls (Vigirenfort plan) and to undertake exchanges of police intelligence within the context of the International Criminal Police Organization (Interpol) network.

Lastly, it should be noted that the authorities of the Principality have drawn up a new model for the Monegasque passport and the card issued to foreign residents. These documents have distinctive markings and methods of recognition and prevention of forgery (ultraviolet sensitivity, plastic film with a hologram, etc.) and are in compliance with the security rules recommended at the international level.[2]

[2] Relevant information on this matter has also been provided in the report of Monaco submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001), in document S/2002/93 — commentary on paragraph 2, subparagraph (g).

III. Measures taken in implementation of paragraph 2 (c) of Security Council resolution 1390 (2002)

The Security Council,

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2. *Decides* that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as "the Committee";

(c) Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, or arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities;

At the outset, it should be pointed out that the Principality of Monaco has no armed forces in the traditional sense of the term: under the Treaty between France and Monaco of 17 July 1918, the French Republic defends the territorial integrity of the Principality of Monaco. Consequently, the only bodies with military status in the Principality are the Prince's guards and the corps of firefighters.

Having said that, it should be noted that the question of weapons is governed by the Convention on good-neighbourliness between France and Monaco of 18 May 1963, given force of law by Sovereign Ordinance No. 3,039 of 19 August 1963, and by Act No. 913 of 18 June 1971 on weapons and ammunition. Article 16 of the Convention stipulates: "The laws and regulations governing war material in France shall also apply in the Principality. The Government of the Principality undertakes to set up a system of laws and regulations for weapons and ammunition that are not considered war materiel as similar as possible to those in force in France". French law which, under the Convention, applies to weapons of war in the territory of Monaco, states that, in the absence of administrative authorization, the manufacture, trade, import, attempted import, acquisition, transfer, possession and transport of such weapons shall be punished by fines and imprisonment, without prejudice to the right of the French authorities to confiscate seized equipment, deactivate it at the offender's expense or auction it.

Weapons in other categories — defensive firearms, hunting weapons, edged weapons, shotguns, fairground or ornamental weapons, antique and collectors' weapons, and their ammunition — are governed by specific Monegasque law arising from Act No. 913 on weapons and ammunition and its implementing legislation, in particular Sovereign Ordinance No. 6,947 of 16 October 1980. This regime, which is based on French law, is particularly restrictive; it provides that:

- Prior administrative authorization must be obtained for the manufacture and trade of defensive firearms or their ammunition and for intermediary or commercial activities relating to these items;

- Prior administrative authorization must be obtained for every operation to import defensive firearms, hunting weapons, edged weapons, shotguns or fairground or ornamental weapons; the expressly decreed principle is prohibition;

- Prior administrative authorization must be obtained by non-professionals for the acquisition, possession, carrying and transport of defensive firearms or edged weapons;

- Criminal penalties (fines and imprisonment) shall be applicable in cases of disregard of the rules set out above, without prejudice to measures to confiscate, auction or deactivate seized weapons and ammunition, withdraw permits that have been issued or suspend administrative declarations. In particular, a penalty of one to five years' imprisonment and a fine of 9,000 to 18,000 euros is applicable to any person who engages in the manufacture or trade of weapons and ammunition without obtaining a permit or declaring the activity, or who acts as an intermediary without being authorized to do so.

All types of arms trade with foreign groups are therefore prohibited. Moreover, all imports and exports of arms are subject to the prior approval of the Government of Monaco.

Lastly, it should be noted that the Government of the Principality is currently studying the possibility of early signature of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts, Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, which could take place before the end of the first half of 2002.

IV. Measures taken in implementation of paragraph 8 of Security Council resolution 1390 (2002):

The Security Council,

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8. *Urges* all States to take immediate steps to enforce and strengthen through legislative enactments or administrative measures, where appropriate, the measures imposed under domestic laws or regulations against their nationals and other individuals or entities operating on their territory, to prevent and punish violations of the measures referred to in paragraph 2 of this resolution, and to inform the Committee of the adoption of such measures, and *invites* States to report the results of all related investigations or enforcement actions to the Committee unless to do so would compromise the investigation or enforcement actions.

Following the terrorist attacks of 11 September 2001, the Monegasque authorities embarked on a strengthening of their legislative and regulatory framework for combating terrorism and its financing:

Thus, the *Journal de Monaco* (Official Gazette) of 12 April 2002 published two Sovereign Ordinances concerning, respectively, the suppression of the financing of terrorism (annex No. 1) and the procedures for freezing funds for the purposes of counter-terrorism (annex No. 2). In accordance with the latter text, a ministerial decree was adopted establishing a list of individuals and entities, including those

appearing on the list drawn up in implementation of Security Council resolutions 1267 (1999) and 1333 (2000), (annex No. 3).

Furthermore, the arrangement which currently enables the Financial Network Information Service (SICCFIN) to exchange information with foreign financial intelligence units (FIUs) in the area of money laundering (art. 31 of Act No. 1,162 of 7 July 1993) will soon be supplemented to enable SICCFIN to act more specifically in the context of the prevention of the financing of terrorism; SICCFIN does have the legal capacity to act in this area, however: currently, its action is based on the concept of the activity of "criminal associations" which has been part of its legislation since 1993.

With regard to the supply, sale or transfer of arms and related materiel, it should be noted that a bill on arms and ammunition, containing provisions which are very similar to those which currently exist in France and conform with Community directives on the subject, is about to be finalized.

Lastly, in the area of police investigations, it should be noted that, following the terrorist attacks of 11 September 2001, the Public Security Department of Monaco has carried out checks to determine whether individuals and/or entities linked with terrorist organizations are present in the Principality. These checks are based on lists distributed by the French and United States authorities, and by Interpol. If the checks reveal that an individual or entity matches an entry on one of the lists, the particulars are sent straightaway to the national or international authorities concerned and legal proceedings are immediately instituted.